

Before the
Federal Communications Commission

Washington, D.C. 20554 2001 MAR 15 A 11: 59

In the Matter of)	
)	
Request for Review of the)	REIVED
Decision of the)	
Universal Service Administrator by)	
)	
Rockwood School District R 6)	File No. SLD-136284
Eureka, Missouri)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.)	
)	

ORDER

Adopted: March 5, 2001

Released: March 6, 2001

By the Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Request for Review filed by Rockwood School District R 6 (Rockwood), Eureka, Missouri.¹ Rockwood seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Company (Administrator) pursuant to a funding request for discounts under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny Rockwood's appeal.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In

¹ Letter from Steve Wester, Rockwood School District R 6, to Federal Communications Commission, filed April 12, 2000 (Request for Review).

² See Letter from Schools and Libraries Division, Universal Service Administrative Company to Steven Wester, Rockwood School District R 6, issued August 10, 1999 (Funding Commitment Decision Letter); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Steven Wester, Rockwood School District R 6, issued March 22, 2000 (Administrator's Decision on Appeal).

³ 47 C.F.R. §§ 54.502, 54.503.

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carriers with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Approval of an application is contingent upon the filing of FCC Form 471, and funding commitment decisions are based on information provided by the school or library in this form.

3. The instant appeal arises from SLD's denial of Rockwood's Funding Request Number (FRN) 136284, on the grounds that more than 30 percent of the funding request is for products ineligible for discounts.⁶ SLD denied Rockwood's subsequent appeal of its funding decision on grounds that more than 30 percent of the request is for cellular services to be used by grounds maintenance workers, resources officers, computer center staff, and food service workers, which are ineligible uses of cellular service.⁷

4. Cellular telephone service is a service conditionally eligible for discount funding under program rules if 1) provided for use at a place of instruction, and 2) used for an educational purpose.⁸ Rockwood sought funding for monthly cellular telephone services on various school

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3).

⁵ 47 C.F.R. § 54.504(c).

⁶ See Funding Commitment Decision Letter at 4. The "30 percent policy" is not a Commission rule, but rather is an SLD operating procedure established pursuant to FCC policy. See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998). This operating procedure, used during SLD's application review process, enables SLD to efficiently process requests for funding for services that are eligible for discounts but that also include some ineligible components. If 30 percent or less of the request is for funding of ineligible services, SLD normally will consider the application and issue a funding commitment for the eligible services. If more than 30 percent of the request is for funding of ineligible services, SLD will deny the funding request in its entirety. The 30 percent policy allows SLD to efficiently process requests for funding that contain only a small amount of ineligible services without expending significant fund resources working with applicants that are requesting funding of ineligible services.

⁷ See Administrator's Decision on Appeal at 3.

⁸ See 47 U.S.C. § 254(h)(1)(B) (requiring that services provided to eligible schools and libraries be used for educational purposes); see also SLD web site, Eligible Services List (January 30, 2001) <<http://www.sl.universalservice.org/reference/eligible.asp>>.

and technology resource center premises within the school district.⁹ Rockwood contends on appeal that the cellular telephones are used by school resource officers to teach safety training and assistance, as well as to provide the school with a safety presence.¹⁰ In its Form 470, however, Rockwood stated that it was seeking cellular, two-way radio services that will improve the customer service between its computer/technology center and its schools, improve communication within the school district among its facilities, and enable Rockwood to establish a Crisis Team that would be contacted in the event of a school district emergency.¹¹ In its Form 471, Rockwood specified a breakdown of the school district employees who would be using the cellular services.¹² This breakdown indicated that 33 of the phones would be used by resource officers, the Crisis Team, computer center employees, grounds/maintenance workers, and food service/warehouse workers (\$20,844 per year).¹³

5. We find that Rockwood's funding request is for an ineligible service. Although Rockwood argues on appeal that the cellular services at issue would be used for educational purposes, such as safety instruction, Rockwood's own application belies its claims. According to Rockwood's FCC Form 471, well over 30 percent of the funding request is to provide monthly cellular services for resource officers, the Crisis Team, computer center employees, grounds/maintenance workers, and food service/warehouse workers, which are clearly ineligible for funding under the program rules because they fail to serve an educational purpose.¹⁴ We decline to overturn SLD's decision when the applicant effectively revises its application on appeal. We, therefore, deny Rockwood's Request for Review.

⁹ Rockwood requested discount funding for 29 schools at \$40 per month per school and six resource centers at \$45 per month per resource center. The funding amount at issue is \$8,864.00, discounted from a total service cost of \$34,764.

¹⁰ See Request for Review.

¹¹ FCC Form 470, Rockwood School District R 6, Eureka, Missouri, filed December 22, 1998.

¹² FCC Form 471, Rockwood School District R 6, Eureka, Missouri, filed March 10, 1999.

¹³ See *id.*

¹⁴ See FCC Form 470, Rockwood School District R 6, Eureka, Missouri, filed December 22, 1998; 47 U.S.C. § 254(h)(1)(B) (requiring that services provided to eligible schools and libraries be used for educational purposes); SLD web site, Eligible Services List (January 30, 2001) <<http://www.sl.universalservice.org/reference/eligible.asp>>.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed April 12, 2000, by Rockwood School District R 6, Eureka, Missouri, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Common Carrier Bureau